



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 302

[EPA-HQ-SFUND-2011-0965; FRL-9636-1]

Designation of Hazardous Substances; Designation, Reportable Quantities, and Notification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to reinstate the maximum observed constituent concentrations for several listed hazardous wastes that were inadvertently removed from the regulations by a November 8, 2000 final rule. Also, in the “Rules and Regulations” section of this Federal Register, EPA is reinstating the same maximum observed constituent concentrations via a direct final rule without a prior proposed rule. If we receive no adverse comment, the direct final rule will become effective, and we will not take further action on this proposed rule.

DATES: Written comments must be received by [Insert date 30 days from date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-SFUND-2011-0965, by mail to the Environmental Protection Agency, EPA Docket Center (EPA/DC), Superfund Docket Mailcode: 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the “Rules and Regulations” section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For general information, contact the Superfund, TRI, EPCRA, RMP and Oil Information Center at (800) 424-9346 or TDD (800) 553-7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 412-9810 or TDD (703) 412-3323. For more detailed information on specific aspects of this proposed rule, contact Lynn Beasley at (202) 564-1965 (beasley.lynn@epa.gov), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460-0002, Mail Code 5104A.

SUPPLEMENTARY INFORMATION:

I. Why is EPA Issuing This Proposed Rule?

This document proposes to reinstate the maximum observed constituent concentrations for several listed hazardous wastes that were inadvertently removed from the regulations by a November 8, 2000 final rule. The listed hazardous wastes and the respective reportable quantities are included in the regulations for Hazardous Substances and Reportable Quantities. We have published a direct final rule to reinstate the maximum observed constituent concentrations in the “Rules and Regulations” section of this Federal Register because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, however, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

II. Does This Action Apply to Me?

Type of Entity	Examples of Affected Entities
Federal Agencies	National Response Center and any Federal agency that may release or respond to releases of hazardous substances.
State and Local Governments	State Emergency Response Commissions, and Local Emergency Planning Committees.
Responsible Parties	Those entities responsible for the release of a hazardous substance from a vessel or facility. Those entities with an interest in the substances that were inadvertently removed from the table of maximum observed constituent concentrations for listed hazardous wastes K169, K170, K171, and K172 in 40 CFR 302.6(b)(1)(iii).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

III. What Does This Amendment Do?

This proposed rule would reinstate the maximum observed constituent concentrations for listed hazardous wastes K169, K170, K171, and K172 to the table found in 40 CFR 302.6(b)(1)(iii). A November 8, 2000 final rule (Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restriction for Newly Identified Wastes; CERCLA Hazardous Substance Designation and Reportable Quantities; Final Rule) inadvertently removed the maximum observed constituent concentrations for those listed hazardous wastes from the table in that section when it was amended to include the maximum observed constituent concentrations for listed hazardous

wastes K174 and K175. (*See* 65 FR 67132.) The maximum observed constituent concentrations were included in the 40 CFR 302.6 regulations to allow generators, transporters, and disposal facilities handling these wastes to calculate reportable quantities (RQs) using the mixture rule¹ developed in connection with the Clean Water Act section 311 regulations. The listed hazardous wastes K169, K170, K171, and K172 and their respective RQs are included in Table 302.4 - List of Hazardous Substances and Reportable Quantities and Appendix A to section 302.4 – Sequential CAS Registry Number List of CERCLA Hazardous Substances of Title 40 of the Code of Federal Regulations. However, the aforementioned Table 302.4 and Appendix A do not contain the maximum observed constituent concentrations. Section 302.6 is the only source of these maximum observed constituent concentrations contained in 40 CFR 302 – Designation, Reportable Quantities, and Notification.

IV. Statutory and Executive Order Reviews

For a complete discussion of all of the administrative requirements applicable to this action, see the direct final rule in the Rules and Regulations section of this **Federal Register**.

¹ 44 FR 50767, Aug. 29, 1979, Final Rulemaking; Water Programs; Determination of Reportable Quantities for Hazardous Substances; and 50 FR 13463, Apr. 4, 1985, Final rule; Notification Requirements; Reportable Quantity Adjustments. Discharges of mixtures and solutions are subject to these regulations only where a component hazardous substance of the mixture or solution is discharged in a quantity equal to or greater than its reportable quantity.

List of Subjects in 40 CFR Part 302

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: February 14, 2012.

Mathy Stanislaus,

Assistant Administrator

Office of Solid Waste and Emergency Response

For the reasons set out, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 302 – DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

1. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602, 9603, and 9604; 33 U.S.C. 1321 and 1361.

2. In §302.6, paragraph (b)(1)(iii), the table is amended by adding entries K169, K170, K171, and K172 in numerical order to read as follows:

§302.6 Notification requirements.

* * * * *

(b) * * *

(1) * * *

(iii) * * *

Waste	Constituent	Max ppm
K169	Benzene	220.0
K170	Benzene	1.2
	Benzo (a) pyrene	230.0
	Dibenz (a,h) anthracene	49.0
	Benzo (a) anthracene	390.0
	Benzo (b) fluoranthene	110.0
	Benzo (k) fluoranthene	110.0
	3-Methylcholanthrene	27.0
	7, 12-Dimethylbenz (a) anthracene	1,200.0
K171	Benzene	500.0
	Arsenic	1,600.0

K172	Benzene	100.0
	Arsenic	730.0
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